

Executive Summary – Enforcement Matter – Case No. 45841
Benbrook Texas Limited Partnership
RN102963238
Docket No. 2012-2700-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Benbrook Village MHP, 5130 Ben Day Murrin Road, Lot 841, Fort Worth, Tarrant County

Type of Operation:

Wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: April 4, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$65,371

Amount Deferred for Expedited Settlement: \$13,074

Amount Deferred for Financial Inability to Pay: \$48,697

Total Paid to General Revenue: \$100

Total Due to General Revenue: \$3,500

Payment Plan: 35 payments of \$100 each

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002 and September 2011

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Benbrook Texas Limited Partnership
RN102963238
Docket No. 2012-2700-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: September 6, 2012 through October 22, 2012, and October 1, 2012

Date(s) of NOE(s): November 16, 2012

Violation Information

1. Failed to ensure that all systems of collection, treatment and disposal are properly operated and maintained. Specifically, the on-site lift station did not have functional audible or visual alarms and only had one functional pump. Additionally, the effluent filter was not in use, the return activated sludge line was not fully functional and the entire plant showed signs of severe corrosion [30 TEX. ADMIN. CODE § 305.125(5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014792001, Operational Requirements No. 1].
2. Failed to comply with permitted effluent limits for total suspended solids ("TSS"), dissolved oxygen, total residual chlorine, and 5-day biochemical oxygen demand ("BOD") [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0014792001, Effluent Limitations and Monitoring Requirements Nos. 1, 2 and 6].
3. Failed to collect and analyze quarterly effluent samples for *E. coli*. Specifically, effluent samples for *E. coli* were not collected and analyzed for the quarterly periods ending December 31, 2011, March 31, 2012, and June 30, 2012 [30 TEX. ADMIN. CODE §§ 305.125(1) and 319.4 and TPDES Permit No. WQ0014792001, Monitoring and Reporting Requirements No. 1].
4. Failed to perform all measurements, tests and calculations in a representative manner to ensure the accurate reporting of data. Specifically, it was documented that the Respondent did not report the daily average concentrations of 5-day BOD and TSS using an arithmetic average for the months of February, March, May, July, September and December 2011 and February 2012. Additionally, the total chlorine residual effluent data as shown in the operator's daily log of measurements was inconsistent with the data that was reported on the discharge monitoring reports ("DMRs") for the months of January, February, April, May, July and October 2011 and March, May and September 2012 [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0014792001, Monitoring and Reporting Requirements No. 2.a.].
5. Failed to timely submit effluent monitoring results as specified in the permit. Specifically, the DMR for the monitoring period ending October 31, 2011, was not submitted by the 20th day of the following month [30 TEX. ADMIN. CODE §§ 305.125(1)

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and 319.7(d) and TPDES Permit No. WQ0014792001, Monitoring and Reporting Requirements No. 1].

6. Failed to submit non-compliance notifications for effluent violations that exceeded the permitted effluent limit by 40% or more for the monitoring periods ending June 30, 2012 through August 31, 2012 [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0014792001, Monitoring and Reporting Requirements No. 7.c.].

7. Failed to properly conduct analysis of the total chlorine residual of collected effluent samples. Specifically, a review of the operator's daily log of measurements showed that a manganese oxide correction was not included on part of the total chlorine residual analysis on May 14, 2012 [30 TEX. ADMIN. CODE §§ 305.125(1) and 319.11(c) and TPDES Permit No. WQ0014792001, Monitoring and Reporting Requirements No. 2.a.].

8. Failed to prevent the unauthorized discharge of wastewater. Specifically, a discharge occurred on July 31, 2012, at the on-site lift station due to a power failure and a discharge occurred on September 5 and 6, 2012, due to a return activated sludge pump malfunction [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0014792001, Permit Conditions 2.g.].

9. Failed to minimize or prevent any discharge or sludge use or disposal or other permit violation which has a reasonable likelihood of adversely affecting human health or the environment. Specifically, there was a large accumulation of sludge in the receiving stream located directly around the outfall pipe; when stirred, the sludge was noted to be septic and malodorous [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0014792001, Permit Conditions 2.d and Effluent Limitations and Monitoring Requirements No. 4].

10. Failed to submit the annual sludge report for the monitoring period ending July 31, 2010, by September 30, 2010 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0014792001, Sludge Provisions].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective measures:

- a. On September 18, 2012, removed sludge from the receiving stream, ensured proper disposal and implemented a solids management plan;
- b. On January 2, 2013, the DMR for the monitoring period ending October, 31, 2011, was submitted;

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c. On January 2, 2013, documentation was submitted demonstrating that the analysis of the total chlorine residual of collected effluent samples is being properly conducted; and

d. On January 2, 2013, documentation was submitted demonstrating that waste from discharges that occurred has been cleaned up and disposed of properly and maintenance has been performed on the treatment plant and lift station to reduce the likelihood of the occurrence of future unauthorized discharges.

Technical Requirements:

The Order will require the Respondent to:

a. Within 30 days:

i. Submit the annual sludge report, including the sludge summary, for the monitoring period ending July 31, 2010;

ii. Submit the revised and corrected DMRs for September 2011, October 2011, December 2011, February 2012, March 2012, May 2012, and September 2012;

iii. Update the Facility's operational guidance and conduct employee training to ensure the following:

(1) Self-reporting requirements are properly accomplished, including the timely submittal of signed and certified annual sludge reports and DMRs;

(2) Collection and analysis of quarterly effluent samples for *E. coli*;

(3) All measurements, tests and calculations are performed in a representative manner to ensure the accurate reporting of data; and

(4) Non-compliance notifications for effluent violations that exceed the permitted limit by 40% or more are properly reported.

b. Within 45 days, submit written certification of compliance with Ordering Provision a.

c. Within 90 days, ensure that all systems of collection, treatment, and disposal are properly operated and maintained, including but not limited to, installing an additional pump at the on-site lift station, repairing the auditory and visual alarms at the on-site lift station, placing the effluent filter in use, restoring the return activated sludge line to full functionality and repairing or replacing equipment that shows signs of excessive corrosion to ensure their proper operation.

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d. Within 105 days, submit written certification of compliance with Ordering Provision c.

e. Within 180 days, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0014792001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported DMRs, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Remington Burklund, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-2611; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

TCEQ SEP Coordinator: N/A

Respondent: Kim Solis, Area Manager, Benbrook Texas Limited Partnership, 120 West Lexington Avenue, Elkhart, Indiana 46516

Brian Smith, Director, Benbrook Texas Limited Partnership, 120 West Lexington Avenue, Elkhart, Indiana 46516

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	19-Nov-2012	PCW	13-Feb-2013	Screening	5-Dec-2012	EPA Due	
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RESPONDENT/FACILITY INFORMATION

Respondent	Benbrook Texas Limited Partnership						
Reg. Ent. Ref. No.	RN102963238						
Facility/Site Region	4-Dallas/Fort Worth				Major/Minor Source	Minor	

CASE INFORMATION

Enf./Case ID No.	45841	No. of Violations	3
Docket No.	2012-2700-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Stephen Thompson
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$5,000****ADJUSTMENTS (+/-) TO SUBTOTAL 1**

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **65.0%** Enhancement **Subtotals 2, 3, & 7** **\$3,250**

Notes: Enhancement for four months of self-reported effluent violations, one order containing denial of liability and one order without denial of liability.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$100****Economic Benefit** **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts \$113
Approx. Cost of Compliance \$950

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$8,150****OTHER FACTORS AS JUSTICE MAY REQUIRE** **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$8,150****STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$8,150****DEFERRAL** **20.0%** Reduction **Adjustment** **-\$1,630**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$6,520**

Screening Date 5-Dec-2012

Docket No. 2012-2700-MWD-E

PCW

Respondent Benbrook Texas Limited Partnership

Policy Revision 2 (September 2002)

Case ID No. 45841

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102963238

Media [Statute] Water Quality

Enf. Coordinator Stephen Thompson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	4	20%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 65%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for four months of self-reported effluent violations, one order containing denial of liability and one order without denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 65%

Screening Date 5-Dec-2012

Docket No. 2012-2700-MWD-E

PCW

Respondent Benbrook Texas Limited Partnership

Policy Revision 2 (September 2002)

Case ID No. 45841

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102963238

Media [Statute] Water Quality

Enf. Coordinator Stephen Thompson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(17) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014792001, Sludge Provisions

Violation Description

Failed to submit the annual sludge report for the monitoring period ending July 31, 2010 by September 30, 2010, as documented during an investigation conducted on September 6 and 13, 2012.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor
		X		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

365 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	X
Single event	

Violation Base Penalty \$1,000

One annual event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Extraordinary

Before NOV NOV to EDPRP/Settlement Offer

Ordinary

N/A

X

(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$43

Violation Final Penalty Total \$1,650

This violation Final Assessed Penalty (adjusted for limits) \$1,650

Economic Benefit Worksheet

Respondent Benbrook Texas Limited Partnership
Case ID No. 45841
Reg. Ent. Reference No. RN102963238
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	30-Sep-2010	1-Aug-2013	2.84	\$35	n/a	\$35
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$50	30-Sep-2010	1-Aug-2013	2.84	\$7	n/a	\$7

Notes for DELAYED costs

Estimated cost to prepare and submit the annual sludge report for the monitoring period ending July 31, 2010, and to update the Facility's operational guidance and to conduct employee training (\$250). Date required is the date the report was due. Final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$300

TOTAL

\$43

Screening Date 5-Dec-2012

Docket No. 2012-2700-MWD-E

PCW

Respondent Benbrook Texas Limited Partnership

Policy Revision 2 (September 2002)

Case ID No. 45841

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102963238

Media [Statute] Water Quality

Enf. Coordinator Stephen Thompson

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. WQ0014792001, Monitoring and Reporting Requirements No. 2.a

Violation Description

Failed to perform all measurements, tests and calculations in a representative manner to ensure the accurate reporting of data, as documented during an investigation conducted on September 6 and 13, 2012. Specifically, it was documented that the Respondent did not report the daily average concentrations of biochemical oxygen demand ("BOD") and total suspended solids ("TSS") using an arithmetic average for the months of February, March, May and July 2011. Additionally, the total chlorine residual effluent data as shown in the operator's daily log of measurements was inconsistent with the data that was reported on the discharge monitoring reports ("DMRs") for the months of January, February, April, May and July 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor
		x	

Percent 5%

Matrix Notes

Between 30 and 70% of the rule requirement was not met.

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 6

181 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$3,000

Six single events (one for each inaccurate DMR) are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$49

Violation Final Penalty Total \$4,950

This violation Final Assessed Penalty (adjusted for limits) \$4,950

Economic Benefit Worksheet

Respondent Benbrook Texas Limited Partnership
Case ID No. 45841
Reg. Ent. Reference No. RN102963238
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	20-Feb-2011	1-Aug-2013	2.45	\$31	n/a	\$31
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$150	20-Feb-2011	1-Aug-2013	2.45	\$18	n/a	\$18

Notes for DELAYED costs

The delayed costs include the estimated amount necessary to conduct employee training to ensure that all measurements, calculations and reporting of data are properly performed and to submit corrected DMRs (\$25 per DMR), calculated from the due date of the first inaccurate DMR to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$400

TOTAL

\$49

Screening Date 5-Dec-2012

Docket No. 2012-2700-MWD-E

PCW

Respondent Benbrook Texas Limited Partnership

Policy Revision 2 (September 2002)

Case ID No. 45841

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102963238

Media [Statute] Water Quality

Enf. Coordinator Stephen Thompson

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code §§ 305.125(1) and 319.11(c) and TPDES Permit No. WQ0014792001, Monitoring and Reporting Requirements No. 2.a

Violation Description

Failed to properly conduct analysis of the total chlorine residual of collected effluent samples, as documented during an investigation conducted on September 6 and 13, 2012. Specifically, a review of the operator's daily log of measurements showed that a manganese oxide correction was not included on part of the total chlorine residual analysis on April 12, 2011, and July 7, 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			x

Percent 5%

>> Programmatic Matrix

	Harm		
	Major	Moderate	Minor
Falsification			

Percent 0%

Matrix Notes

As a result of this violation human health or the environment could be exposed to an insignificant amount of contaminants which would not exceed protective levels.

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 2

2 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

Two single events (one for each analysis) are recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$100

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes

The Respondent achieved compliance on January 2, 2013.

Violation Subtotal \$900

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$22

Violation Final Penalty Total \$1,550

This violation Final Assessed Penalty (adjusted for limits) \$1,550

Economic Benefit Worksheet

Respondent Benbrook Texas Limited Partnership
Case ID No. 45841
Reg. Ent. Reference No. RN102963238
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	12-Apr-2011	2-Jan-2013	1.73	\$22	n/a	\$22
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the estimated amount necessary to conduct employee training to ensure that the total chlorine residual analysis is properly performed, calculated from the date of the first inaccurate analysis to the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

TOTAL

\$22



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	19-Nov-2012	Screening	5-Dec-2012	EPA Due	
	PCW	13-Feb-2013				

RESPONDENT/FACILITY INFORMATION

Respondent	Benbrook Texas Limited Partnership		
Reg. Ent. Ref. No.	RN102963238		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	45841	No. of Violations	9
Docket No.	2012-2700-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Stephen Thompson
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum		\$0	Maximum
			\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$35,375**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **65.0%** Enhancement **Subtotals 2, 3, & 7** **\$22,993**

Notes: Enhancement for four months of self-reported effluent violations, one order containing denial of liability and one order without denial of liability.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$1,387**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts: \$7,837
Approx. Cost of Compliance: \$109,600

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$56,981**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.4%** **Adjustment** **\$240**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement recommended to recover the avoided costs of compliance associated with violation nos. 3 and 6.

Final Penalty Amount **\$57,221**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$57,221**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$11,444**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **\$45,777**

Screening Date 5-Dec-2012

Docket No. 2012-2700-MWD-E

PCW

Respondent Benbrook Texas Limited Partnership

Policy Revision 3 (September 2011)

Case ID No. 45841

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102963238

Media [Statute] Water Quality

Enf. Coordinator Stephen Thompson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	4	20%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 65%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for four months of self-reported effluent violations, one order containing denial of liability and one order without denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 65%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 65%

Screening Date 5-Dec-2012

Docket No. 2012-2700-MWD-E

PCW

Respondent Benbrook Texas Limited Partnership

Policy Revision 3 (September 2011)

Case ID No. 45841

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102963238

Media [Statute] Water Quality

Enf. Coordinator Stephen Thompson

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 305.125(5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014792001, Operational Requirements No. 1

Violation Description

Failed to ensure that all systems of collection, treatment and disposal are properly operated and maintained, as documented during an investigation conducted on September 6 and 13, 2012. Specifically, the on-site lift station did not have functional audible or visual alarms and only had one functional pump. Additionally, the effluent filter was not in use, the return activated sludge line was not fully functional and the entire plant showed signs of severe corrosion.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

	Major	Moderate	Minor
Release			
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0.0%

Matrix Notes

Failure to properly operate and maintain the Facility could expose human health or environmental receptors to pollutants which would exceed protective levels.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 3

90 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$11,250

Three monthly events are recommended, calculated from the date of the investigation, September 6, 2012, to the date of screening, December 5, 2012.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$11,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$7,479

Violation Final Penalty Total \$18,641

This violation Final Assessed Penalty (adjusted for limits) \$18,641

Economic Benefit Worksheet

Respondent Benbrook Texas Limited Partnership
Case ID No. 45841
Reg. Ent. Reference No. RN102963238
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$100,000	6-Sep-2012	1-Oct-2013	1.07	\$356	\$7,123	\$7,479
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount necessary to perform repairs and rehabilitate the Facility, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100,000

TOTAL

\$7,479

Screening Date 5-Dec-2012

Docket No. 2012-2700-MWD-E

PCW

Respondent Benbrook Texas Limited Partnership

Policy Revision 3 (September 2011)

Case ID No. 45841

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102963238

Media [Statute] Water Quality

Enf. Coordinator Stephen Thompson

Violation Number 2

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. WQ0014792001, Effluent Limitations and Monitoring Requirements Nos. 1, 2 and 6

Violation Description

Failed to comply with permitted effluent limits, as documented during a record review conducted on October 1, 2012, and as shown in the attached violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

A simplified model was used to evaluate biochemical oxygen demand to determine whether the discharged amount of pollutants exceeded levels protective of human health and the environment. In addition, total chlorine residual, dissolved oxygen and total suspended solids were considered. As a result of these discharges, human health or the environment has been exposed to an insignificant amount of pollutants which do not exceed protective levels.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 3

270 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$3,750

Three quarterly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$6,214

This violation Final Assessed Penalty (adjusted for limits) \$6,214

Economic Benefit Worksheet

Respondent Benbrook Texas Limited Partnership
Case ID No. 45841
Reg. Ent. Reference No. RN102963238
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs associated with this violation are included with violation no. 1.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Screening Date 5-Dec-2012

Docket No. 2012-2700-MWD-E

PCW

Respondent Benbrook Texas Limited Partnership

Policy Revision 3 (September 2011)

Case ID No. 45841

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102963238

Media [Statute] Water Quality

Enf. Coordinator Stephen Thompson

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code §§ 305.125(1) and 319.4 and TPDES Permit No. WQ0014792001, Monitoring and Reporting Requirements No. 1

Violation Description

Failed to collect and analyze quarterly effluent samples for Escherichia coli ("E. coli"), as documented during an investigation conducted on September 6 and 13, 2012. Specifically, effluent samples for E. coli were not collected and analyzed for the quarterly periods ending December 31, 2011, March 31, 2012, and June 30, 2012.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0.0%

Matrix Notes

Failure to collect E. coli samples could expose human health or the environment to a significant amount of contaminants which would not exceed protective levels.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 3

274 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

Three quarterly events are recommended, calculated for the quarters in which sampling did not occur.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$172

Violation Final Penalty Total \$6,214

This violation Final Assessed Penalty (adjusted for limits) \$6,214

Economic Benefit Worksheet

Respondent Benbrook Texas Limited Partnership
Case ID No. 45841
Reg. Ent. Reference No. RN102963238
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$250	6-Sep-2012	1-Aug-2013	0.90	\$11	n/a	\$11
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the estimated amount necessary to update operational guidance to ensure that effluent is monitored for E. coli on a quarterly basis, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$150	31-Dec-2011	30-Jun-2012	1.42	\$11	\$150	\$161
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the estimated amount to collect quarterly E. coli samples (\$50 per sample), calculated from the date the first sample was due to be collected to date the last sample was due to be collected.

Approx. Cost of Compliance

\$400

TOTAL

\$172

Screening Date 5-Dec-2012

Docket No. 2012-2700-MWD-E

PCW

Respondent Benbrook Texas Limited Partnership

Policy Revision 3 (September 2011)

Case ID No. 45841

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102963238

Media [Statute] Water Quality

Enf. Coordinator Stephen Thompson

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. WQ0014792001,
Monitoring and Reporting Requirements No. 2.a

Violation Description

Failed to perform all measurements, tests and calculations in a representative manner to ensure the accurate reporting of data, as documented during an investigation conducted on September 6 and 13, 2012. Specifically, it was documented that the Respondent did not report the daily average concentrations of 5-day biochemical oxygen demand ("BOD") and total suspended solids ("TSS") using an arithmetic average for the months of September and December 2011 and February 2012. Additionally, the total chlorine residual effluent data as shown in the operator's daily log of measurements was inconsistent with the data that was reported on the discharge monitoring reports ("DMRs") for the months of October 2011 and March, May and September 2012.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Harm Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
		x	

Percent 2.5%

Matrix
Notes

Between 30 and 70% of the rule requirement was not met.

Adjustment \$24,375

\$625

Violation Events

Number of Violation Events 7

212 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$4,375

Seven single events (one for each inaccurate DMR) are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$4,375

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$31

Violation Final Penalty Total \$7,249

This violation Final Assessed Penalty (adjusted for limits) \$7,249

Economic Benefit Worksheet

Respondent Benbrook Texas Limited Partnership
Case ID No. 45841
Reg. Ent. Reference No. RN102963238
Media Water Quality
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$350	20-Oct-2011	1-Aug-2013	1.78	\$31	n/a	\$31

Notes for DELAYED costs

The delayed cost includes the estimated amount necessary to submit correct DMRs (\$50 per DMR), calculated from the due date of the first inaccurate DMR to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$350

TOTAL

\$31

Screening Date 5-Dec-2012

Docket No. 2012-2700-MWD-E

PCW

Respondent Benbrook Texas Limited Partnership

Policy Revision 3 (September 2011)

Case ID No. 45841

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102963238

Media [Statute] Water Quality

Enf. Coordinator Stephen Thompson

Violation Number 5

Rule Cite(s)

30 Tex. Admin. Code §§ 305.125(1) and 319.7(d) and TPDES Permit No. WQ0014792001, Monitoring and Reporting Requirements No. 1

Violation Description

Failed to timely submit effluent monitoring results as specified in the permit, as documented during an investigation conducted on September 6 and 13, 2012. Specifically, the DMR for the monitoring period ending October 31, 2011, was not submitted by the 20th day of the following month.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			x

Percent 1.0%

Matrix Notes

Less than 30% of the rule requirement was not met.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 1

410 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$250

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$414

This violation Final Assessed Penalty (adjusted for limits) \$414

Economic Benefit Worksheet

Respondent Benbrook Texas Limited Partnership
Case ID No. 45841
Reg. Ent. Reference No. RN102963238
Media Water Quality
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$25	20-Nov-2011	3-Jan-2013	1.12	\$1	n/a	\$1

Notes for DELAYED costs

The delayed cost includes the estimated amount necessary to submit the DMR for the monitoring period ending October 31, 2011, calculated from the date the DMR was due to the date of submittal.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$25

TOTAL

\$1

Screening Date 5-Dec-2012

Docket No. 2012-2700-MWD-E

PCW

Respondent Benbrook Texas Limited Partnership

Policy Revision 3 (September 2011)

Case ID No. 45841

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102963238

Media [Statute] Water Quality

Enf. Coordinator Stephen Thompson

Violation Number 6

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. WQ0014792001,
Monitoring and Reporting Requirements No. 7.c

Violation Description

Failed to submit non-compliance notifications for effluent violations that exceeded the permitted effluent limit by 40% or more for the monitoring periods ending June 30, 2012 through August 31, 2012, as documented during an investigation conducted on September 6, 2012.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix
Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 3

92 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$3,750

Three single events are recommended, one for each month that a non-compliance notification was not submitted.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$90

Violation Final Penalty Total \$6,214

This violation Final Assessed Penalty (adjusted for limits) \$6,214

Economic Benefit Worksheet

Respondent Benbrook Texas Limited Partnership
Case ID No. 45841
Reg. Ent. Reference No. RN102963238
Media Water Quality
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$250	6-Sep-2012	1-Aug-2013	0.90	\$11	n/a	\$11
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount necessary to update operational guidance to ensure that exceedances of the permitted effluent limits by 40% or more are properly reported to the TCEQ, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$75	30-Jun-2012	30-Aug-2012	1.08	\$4	\$75	\$79
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the estimated amount necessary to submit the non-compliance notifications (\$25 per notification). Date required is the date the first report was due. Final date is the date the last report was due.

Approx. Cost of Compliance

\$325

TOTAL

\$90

Screening Date 5-Dec-2012

Docket No. 2012-2700-MWD-E

PCW

Respondent Benbrook Texas Limited Partnership

Policy Revision 3 (September 2011)

Case ID No. 45841

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102963238

Media [Statute] Water Quality

Enf. Coordinator Stephen Thompson

Violation Number 7

Rule Cite(s)

30 Tex. Admin. Code §§ 305.125(1) and 319.11(c) and TPDES Permit No. WQ0014792001, Monitoring and Reporting Requirements No. 2.a

Violation Description

Failed to properly conduct analysis of the total chlorine residual of collected effluent samples, as documented during an investigation conducted on September 6 and 13, 2012. Specifically, a review of the operator's daily log of measurements showed that a manganese oxide correction was not included on part of the total chlorine residual analysis on May 14, 2012.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential			x

Percent 3.0%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0.0%

Matrix Notes

As a result of this violation human health or the environment could be exposed to an insignificant amount of contaminants which would not exceed protective levels.

Adjustment \$24,250

\$750

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$750

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$75

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes

The Respondent achieved compliance on January 2, 2013.

Violation Subtotal \$675

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$1,167

This violation Final Assessed Penalty (adjusted for limits) \$1,167

Economic Benefit Worksheet

Respondent Benbrook Texas Limited Partnership
Case ID No. 45841
Reg. Ent. Reference No. RN102963238
Media Water Quality
Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs associated with the violation have been captured by violation no. 3 on PCW revision 2.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Screening Date 5-Dec-2012

Docket No. 2012-2700-MWD-E

PCW

Respondent Benbrook Texas Limited Partnership

Policy Revision 3 (September 2011)

Case ID No. 45841

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102963238

Media [Statute] Water Quality

Enf. Coordinator Stephen Thompson

Violation Number 8

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. WQ0014792001, Permit Conditions 2.g

Violation Description

Failed to prevent the unauthorized discharge of wastewater, as documented during an investigation conducted on September 6 and 13, 2012. Specifically, a discharge occurred on July 31, 2012, at the on-site lift station due to a power failure and a discharge occurred on September 5 and 6, 2012, due to a return activated sludge pump malfunction.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			x
Potential			

Percent 5.0%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 3

127 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

Three quarterly events are recommended. For the earlier discharge, two events are calculated from the date of the discharge, July 31, 2012, to the date of screening, December 5, 2012; for the later discharge, one event is calculated from the date of the discharge September 6, 2012, to the date of screening, December 5, 2012.

Good Faith Efforts to Comply

10.0% Reduction

\$375

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes

The Respondent achieved compliance on January 2, 2013.

Violation Subtotal \$3,375

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$53

Violation Final Penalty Total \$5,837

This violation Final Assessed Penalty (adjusted for limits) \$5,837

Economic Benefit Worksheet

Respondent Benbrook Texas Limited Partnership
Case ID No. 45841
Reg. Ent. Reference No. RN102963238
Media Water Quality
Violation No. 8

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$2,500	31-Jul-2012	2-Jan-2013	0.42	\$53	n/a	\$53
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the estimated amount necessary to clean the affected areas and properly dispose of wastes, calculated from the date of the first discharge to the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,500

TOTAL

\$53

Screening Date 5-Dec-2012

Docket No. 2012-2700-MWD-E

PCW

Respondent Benbrook Texas Limited Partnership

Policy Revision 3 (September 2011)

Case ID No. 45841

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102963238

Media [Statute] Water Quality

Enf. Coordinator Stephen Thompson

Violation Number 9

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. WQ0014792001, Permit Conditions 2.d and Effluent Limitations and Monitoring Requirements No. 4

Violation Description

Failed to minimize or prevent any discharge or sludge use or disposal or other permit violation which has a reasonable likelihood of adversely affecting human health or the environment, as documented during an investigation conducted on September 6 and 13, 2012. Specifically, there was a large accumulation of sludge in the receiving stream located directly around the outfall pipe; when stirred, the sludge was noted to be septic and malodorous.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		x	
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to a significant amount of contaminants which do not exceed protective levels as a result of this violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

12 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$3,750

One monthly event is recommended, calculated from the date of the investigation, September 6, 2012, to the date of compliance, September 18, 2012.

Good Faith Efforts to Comply

25.0% Reduction

\$937

Extraordinary

Ordinary

N/A

Notes

Before NOV NOV to EDRP/Settlement Offer

(mark with x)

The Respondent achieved compliance on September 18, 2012.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$10

Violation Final Penalty Total \$5,273

This violation Final Assessed Penalty (adjusted for limits) \$5,273

Economic Benefit Worksheet

Respondent Benbrook Texas Limited Partnership
Case ID No. 45841
Reg. Ent. Reference No. RN102963238
Media Water Quality
Violation No. 9

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$1,000	6-Sep-2012	18-Sep-2012	0.03	\$2	n/a	\$2
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$5,000	6-Sep-2012	18-Sep-2012	0.03	\$8	n/a	\$8

Notes for DELAYED costs

The delayed costs include the estimated amount necessary to remove the sludge from the receiving stream and to develop and implement a solids management plan to prevent future discharges, calculated from the date of the investigation to the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$6,000

TOTAL

\$10

Benbrook Texas Limited Partnership
 TPDES Permit No. WQ0014792001
 Docket No. 2012-2700-MWD-E

	TSS Daily Avg. Conc.	TSS Single Grab Conc.	TSS Daily Avg. Loading	BOD5 Daily Avg. Conc.	Total Chlorine Residual Grab Sample*	Dissolved Oxygen Grab Sample**
	Limit = 15 mg/L	Limit = 60 mg/L	Limit = 4.4 lbs/day	Limit = 10 mg/L	Min. limit = 1.0 mg/L	Min. limit = 4.0 mg/L
October 2011	c	c	c	11.2	c	c
June 2012	21.7	c	c	c	c	c
July 2012	22.7	c	c	c	c	c
August 2012	35.7	68	4.7	10.6	c	c
September 2012	19.1	c	c	15.2	0.72	3.54

TSS = total suspended solids
 Avg. = average
 mg/L = milligrams per liter
 Min. = minimum
 lbs/day = pounds per day

Conc. = concentration
 BOD5 = five-day biochemical oxygen demand
 c = compliant
 *Based on grab sample collected on September 6, 2012
 **Based on grab sample collected on September 13, 2012

The TCEQ is committed to accessibility.
To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN603181231, RN102963238, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN603181231, Benbrook Texas Limited Partnership
Classification: SATISFACTORY
Rating: 6.77

Regulated Entity: RN102963238, BENBROOK VILLAGE MHP
Classification: SATISFACTORY
Rating: 6.77

Complexity Points: 8
Repeat Violator: NO

CH Group: 14 - Other

Location: 5130 BEN DAY MURRIN ROAD, LOT 841, FORT WORTH, TARRANT COUNTY, TX

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):

WASTEWATER PERMIT WQ0014792001

WASTEWATER EPA ID TX0093082

WASTEWATER EPA ID TX0093092

WASTEWATER LICENSING LICENSE WQ0012723001

Compliance History Period: September 01, 2007 to August 31, 2012
Rating Year: 2012
Rating Date: 09/01/2012

Date Compliance History Report Prepared: December 17, 2012

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: December 17, 2007 to December 17, 2012

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Stephen Thompson

Phone: (512) 239-2558

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- 1 Effective Date: 02/08/2008 ADMINORDER 2007-0371-MWD-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)
Rqmt Prov:WQ0012723-001 PERMIT
Description: Failure to submit the Annual Sludge Report (ASR) for FY06 by September 1, 2006.
Classification: Major
Citation: 30 TAC Chapter 305, SubChapter C 305.42(a)
TWC Chapter 26 26.121
Description: Failure to operate with a current permit.
- 2 Effective Date: 12/04/2010 ADMINORDER 2009-0628-MWD-E (Findings Order-Agreed Order Without Denial)
Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov:Effluent Limits PERMIT
Description: Failure to comply with permit effluent limits.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	March 28, 2008	(694239)
Item 2	June 23, 2008	(715606)
Item 3	July 14, 2008	(715607)
Item 4	February 24, 2009	(754638)
Item 5	April 27, 2009	(771876)
Item 6	July 31, 2009	(815653)
Item 7	September 28, 2009	(815654)
Item 8	October 22, 2009	(815655)
Item 9	January 20, 2010	(815658)
Item 10	March 08, 2010	(815650)
Item 11	March 22, 2010	(834700)
Item 12	April 28, 2010	(834701)
Item 13	June 14, 2010	(845307)
Item 14	June 17, 2010	(847430)
Item 15	August 04, 2010	(868321)
Item 16	October 04, 2010	(882836)
Item 17	November 29, 2010	(889230)
Item 18	December 22, 2010	(897612)
Item 19	March 11, 2011	(917636)
Item 20	March 21, 2011	(917637)
Item 21	April 20, 2011	(928855)
Item 22	May 23, 2011	(939342)
Item 23	June 27, 2011	(946746)
Item 24	July 25, 2011	(954007)
Item 25	August 19, 2011	(960599)
Item 26	September 26, 2011	(966666)
Item 27	October 21, 2011	(972666)
Item 28	December 09, 2011	(985644)
Item 29	January 20, 2012	(991978)
Item 30	February 07, 2012	(999296)
Item 31	March 20, 2012	(1004802)
Item 32	April 18, 2012	(1011392)
Item 33	May 16, 2012	(1017749)
Item 34	June 20, 2012	(1025533)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date: 06/30/2012 (1032873)	CN603181231	
	Self Report? YES	Classification: Moderate	
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
2	Date: 07/31/2012	CN603181231	
	Self Report? YES	Classification: Moderate	
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
3	Date: 08/31/2012	CN603181231	
	Self Report? YES	Classification: Moderate	
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		

4

Date: 09/30/2012

CN603181231

Self Report? YES

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING BENBROOK
TEXAS LIMITED PARTNERSHIP
RN102963238**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2012-2700-MWD-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Benbrook Texas Limited Partnership ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns a wastewater treatment facility at 5130 Ben Day Murrin Road, Lot 841 in Fort Worth, Tarrant County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about November 21, 2012.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Sixty-Five Thousand Three Hundred Seventy-One Dollars (\$65,371) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Revenue Operations Assurance Section of the Commission's Financial Administration Division reviewed financial

documentation submitted by the Respondent and determined that the Respondent is unable to pay part of the administrative penalty. Therefore, Sixty-One Thousand Seven Hundred Seventy-One Dollars (\$61,771) of the penalty is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The Respondent has paid One Hundred Dollars (\$100) of the undeferred administrative penalty. The remaining amount of Three Thousand Five Hundred Dollars (\$3,500) of the administrative penalty shall be payable in 35 monthly payments of One Hundred Dollars (\$100) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. On September 18, 2012, removed sludge from the receiving stream, ensured proper disposal and implemented a solids management plan;
 - b. On January 2, 2013, the discharge monitoring report ("DMR") for the monitoring period ending October, 31, 2011, was submitted;
 - c. On January 2, 2013, documentation was submitted demonstrating that the analysis of the total chlorine residual of collected effluent samples is being properly conducted; and
 - d. On January 2, 2013, documentation was submitted demonstrating that waste from discharges that occurred has been cleaned up and disposed of properly and maintenance has been performed on the treatment plant and lift station to reduce the likelihood of the occurrence of future unauthorized discharges.

10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner of the Facility, the Respondent is alleged to have:

1. Failed to ensure that all systems of collection, treatment and disposal are properly operated and maintained, in violation of 30 TEX. ADMIN. CODE § 305.125(5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014792001, Operational Requirements No. 1, as documented during an investigation conducted on September 6 and 13, 2012. Specifically, the on-site lift station did not have functional audible or visual alarms and only had one functional pump. Additionally, the effluent filter was not in use, the return activated sludge line was not fully functional and the entire plant showed signs of severe corrosion.
2. Failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0014792001, Effluent Limitations and Monitoring Requirements Nos. 1, 2 and 6, as documented during an investigation conducted on September 6 and 13, 2012, and a record review conducted on October 1, 2012, and as shown in the following violation table:

	TSS Daily Avg. Conc.	TSS Single Grab Conc.	TSS Daily Avg. Loading	BOD ₅ Daily Avg. Conc.	Total Chlorine Residual Grab Sample*	Dissolved Oxygen Grab Sample**
	Limit = 15 mg/L	Limit = 60 mg/L	Limit = 4.4 lbs/day	Limit = 10 mg/L	Min. limit = 1.0 mg/L	Min. limit = 4.0 mg/L
October 2011	c	c	c	11.2	c	c
June 2012	21.7	c	c	c	c	c
July 2012	22.7	c	c	c	c	c
August 2012	35.7	68	4.7	10.6	c	c
September 2012	19.1	c	c	15.2	0.72	3.54

TSS = total suspended solids
Avg. = average
mg/L = milligrams per liter
Min. = minimum
lbs/day = pounds per day

Conc. = concentration
BOD₅ = five-day biochemical oxygen demand
c = compliant
*Based on grab sample collected on September 6, 2012
**Based on grab sample collected on September 13, 2012

3. Failed to collect and analyze quarterly effluent samples for *Escherichia coli* ("*E. coli*"), in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.4 and TPDES Permit No. WQ0014792001, Monitoring and Reporting Requirements No. 1, as documented during an investigation conducted on September 6 and 13, 2012. Specifically, effluent samples for *E. coli* were not collected and analyzed for the quarterly periods ending December 31, 2011, March 31, 2012, and June 30, 2012.
4. Failed to perform all measurements, tests and calculations in a representative manner to ensure the accurate reporting of data, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0014792001, Monitoring and Reporting Requirements No. 2.a, as documented during an investigation conducted on September 6 and 13, 2012. Specifically, it was documented that the Respondent did not report the daily average concentrations of BOD and TSS using an arithmetic average for the months of February, March, May, July, September and December 2011 and February 2012. Additionally, the total chlorine residual effluent data as shown in the operator's daily log of measurements was inconsistent with the data that was reported on the DMRs for the months of January, February, April, May, July and October 2011 and March, May and September 2012.
5. Failed to timely submit effluent monitoring results as specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.7(d) and TPDES Permit No. WQ0014792001, Monitoring and Reporting Requirements No. 1, as documented during an investigation conducted on September 6 and 13, 2012. Specifically, the DMR for the monitoring period ending October 31, 2011, was not submitted by the 20th day of the following month.

6. Failed to submit non-compliance notifications for effluent violations that exceeded the permitted effluent limit by 40% or more for the monitoring periods ending June 30, 2012 through August 31, 2012, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0014792001, Monitoring and Reporting Requirements No. 7.c, as documented during an investigation conducted on September 6, 2012.
7. Failed to properly conduct analysis of the total chlorine residual of collected effluent samples, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.11(c) and TPDES Permit No. WQ0014792001, Monitoring and Reporting Requirements No. 2.a, as documented during an investigation conducted on September 6 and 13, 2012. Specifically, a review of the operator's daily log of measurements showed that a manganese oxide correction was not included on part of the total chlorine residual analysis on May 14, 2012.
8. Failed to prevent the unauthorized discharge of wastewater, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0014792001, Permit Conditions 2.g, as documented during an investigation conducted on September 6 and 13, 2012. Specifically, a discharge occurred on July 31, 2012, at the on-site lift station due to a power failure and a discharge occurred on September 5 and 6, 2012, due to a return activated sludge pump malfunction.
9. Failed to minimize or prevent any discharge or sludge use or disposal or other permit violation which has a reasonable likelihood of adversely affecting human health or the environment, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0014792001, Permit Conditions 2.d and Effluent Limitations and Monitoring Requirements No. 4, as documented during an investigation conducted on September 6 and 13, 2012. Specifically, there was a large accumulation of sludge in the receiving stream located directly around the outfall pipe; when stirred, the sludge was noted to be septic and malodorous.
10. Failed to submit the annual sludge report for the monitoring period ending July 31, 2010, by September 30, 2010, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0014792001, Sludge Provisions, as documented during an investigation conducted on September 6 and 13, 2012.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Benbrook Texas Limited Partnership, Docket No. 2012-2700-MWD-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Submit the annual sludge report, including the sludge summary, for the monitoring period ending July 31, 2010, in accordance with the requirements of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0014792001;
 - ii. Submit the revised and corrected DMRs for September 2011, October 2011, December 2011, February 2012, March 2012, May 2012, and September 2012, in accordance with the requirements of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0014792001, Monitoring and Reporting Requirements No. 2.a; and
 - iii. Update the Facility's operational guidance and conduct employee training to ensure the following:
 - (1) Self-reporting requirements are properly accomplished, including the timely submittal of signed and certified annual sludge reports and DMRs, in accordance with TPDES Permit No. WQ0014792001;
 - (2) Collection and analysis of quarterly effluent samples for *E. coli*, in accordance with TPDES Permit No. WQ0014792001;
 - (3) All measurements, tests and calculations are performed in a representative manner to ensure the accurate reporting of data, in accordance with TPDES Permit No. WQ0014792001; and

- c. Within 90 days after the effective date of this Agreed Order, ensure that all systems of collection, treatment, and disposal are properly operated and maintained, including but not limited to, installing an additional pump at the on-site lift station, repairing the auditory and visual alarms at the on-site lift station, placing the effluent filter in use, restoring the return activated sludge line to full functionality and repairing or replacing equipment that shows signs of excessive corrosion to ensure their proper operation, in accordance with TPDES Permit No. WQ0014792001; and
- d. Within 105 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.c., in accordance with Ordering Provision No. 2.e below; and
- e. Within 180 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0014792001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported DMRs, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

- 3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Ben Mawie
For the Executive Director

10/31/14
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Kim Solis
Signature

12/19/2013
Date

Kim Solis
Name (Printed or typed)
Authorized Representative of
Benbrook Texas Limited Partnership

Area Manager
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.